

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

NORTHERN ILLINOIS GAS COMPANY)	
d/b/a NICOR GAS COMPANY)	
)	Docket No. 10-0096
Application pursuant to Section 9-201 and)	
Section 19-140 of the Illinois Public Utilities)	
Act for consent to and approval of Rider 31,)	
On-Bill Financing Program and related)	
changes to Nicor Gas' tariffs, and approval)	
of the Energy Efficiency On-Bill Financing)	
Program.)	

**NICOR GAS COMPANY'S
VERIFIED REPLY TO ADDITIONAL COMMENTS**

Northern Illinois Gas Company d/b/a Nicor Gas Company ("Nicor Gas" or "Company") respectfully submits its Verified Reply to Additional Comments pursuant to the Administrative Law Judge's ("ALJ") Ruling issued on March 25, 2010 ("ALJ Ruling") (ALJ Ruling, p. 1). Additional Comments were submitted by Nicor Gas, the Staff of the Illinois Commerce Commission, ("Staff"), and the Citizens Utility Board ("CUB"). The People of the State of Illinois ("AG") did not file Comments but reserved the right to file Reply Additional Comments. The following are Nicor Gas' reply comments to Staff and CUB.

I. Response to Staff Comments

Nicor Gas and Staff agree that the Commission does not have jurisdiction to rule on the applicability of the Gas Revenue Tax and municipal taxes to revenues received by the utility from the On-Bill Financing Program ("OBF Program"). Nicor Gas and Staff also agree that the Commission *does* have jurisdiction to determine the applicability of the Public Utility Fund tax (PUF tax").

With respect to the PUF tax, Staff asserts that the OBF Program Act does not require the Commission to determine the applicability of this tax, or any other tax in this proceeding. Staff recommends that the Commission initiate a separate docket to rule on the issue because it needs time to interpret the PUF Act and the OBF Act. (Staff Add'l Comments, p. 8). Finally, Staff agrees with Nicor Gas that if the PUF tax is applied to OBF Program revenues, it should be applied to the individual participant. (Staff Add'l Comments, p. 6).

While Staff argues it needs more time to analyze the PUF and OBF Acts, its Comments actually contain an analysis of both Acts. Nicor Gas takes no position on how the Commission should decide whether the PUF tax is applicable. However, it is the Company's position that the Commission can, and should, review both Acts within this proceeding and determine the applicability of the PUF tax to OBF Program revenues.

Resolving this issue in this proceeding also makes sense. The amount of money at issue is *de minimis*. Assuming Nicor Gas were to bill all the outstanding balance limit of \$2.5 million in one year, an unlikely event, applying the PUF tax rate of 0.1 percent would only generate \$2,500 in PUF taxes. In reality, because loans would be in place for extended time periods, and the PUF tax only would apply to the monthly payments, the annual revenue to the Commission likely will be far less than \$2,500. Consequently, it would be unreasonable, and an inefficient use of administrative resources, to initiate an entirely new proceeding to address an issue that has little financial impact on customers or the Commission.

In the absence of a Commission ruling in this proceeding, Nicor Gas would apply the PUF tax to the OBF Program revenues on each participant's monthly payment.

II. Response to CUB Comments

CUB argues that the Illinois Department of Revenue's ("IDOR") memorandum attached to Staff's direct comments is sufficient for the Commission to make a determination on the applicability of the Gas Revenue Tax to the OBF Program revenues. (CUB Add'l Comments, p. 2). Additionally, CUB takes this opportunity to reiterate its position that the Gas Revenue Tax does not apply to OBF Program revenues because such revenue qualifies for an exemption under the Gas Revenue Tax Act. Nicor Gas respectfully disagrees with both positions.

With respect to municipal taxes, CUB recommends that the Commission seek clarification from the tax authorities as to the applicability of these taxes. (CUB Add'l Comments, p. 3). CUB argues that the same concerns expressed by the IDOR, that the taxes are different for gas and electric service, should be applied by municipalities. As stated above, Nicor Gas and Staff agree that the Commission does not have jurisdiction over municipal taxes and it should not be responsible for seeking any clarification as to their applicability. Moreover, Nicor Gas and Staff agree that each utility should seek any clarifications they deem necessary.

Meanwhile, CUB agrees with Nicor Gas and Staff that the Commission does have authority to determine if the PUF tax is applicable to OBF Program revenues. (CUB Add'l Comments, p. 4). However, CUB recommends that if the Commission does determine that the PUF tax should apply to OBF Program revenues, that this tax be socialized and spread across all customers.

Nicor Gas disagrees with CUB's recommendation to socialize these costs. As stated above, the tax is *de minimis*. For example, an individual customer would pay a tax of \$0.10 for every \$100.00 monthly payment.

CUB's proposal also raises significant operational issues that will impose additional costs on Nicor Gas and its customers. Specifically, to comply with CUB's recommendation Nicor Gas would require significant programming changes to the Company's billing system in order to segregate this revenue from all other revenue subject to the PUF tax. It is the Company's position that it would be unreasonable to require such changes for such a small number of customers and related tax revenue, relative to Nicor Gas' over 2 million customers. For these reasons, Nicor Gas disagrees with CUB's recommendation to socialize this tax.

Dated: April 5, 2010

Respectfully Submitted,

NORTHERN ILLINOIS GAS COMPANY
D/B/A NICOR GAS COMPANY

By: /s/ John E. Rooney

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CERTIFICATE OF SERVICE

I, John E. Rooney, hereby certify that I caused a copy of the Verified Reply to Additional Comments of Nicor Gas Company upon the service list in Docket No. 10-0096 via email on April 5, 2010.

/s/ John E. Rooney
John E. Rooney